



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,528	06/16/2006	Stephanie V. Desrousseaux	87038JJH	3199

1333 7590 03/24/2009
EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

SHEWAREGED, BETTELHEIM

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

03/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/583,528

Applicant(s)

DESROUSSEAUX ET AL.

Examiner

Betelhem Shewareged

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's response filed on 01/07/2009 has been fully considered. Claim 1 is amended, and claims 1-17 are pending. The Double Patenting rejections have been withdrawn in view of Applicant's submission of Terminal Disclaimer.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell et al. (EP 1 184 193 A2) in view of Poncelet et al. (US 5,888,711) and Plank et al. (US 3,816,342).

4. Claims 1-15: Campbell teaches an ink jet recording element comprising a substrate and a porous image receiving layer (abstract). The image receiving layer comprises a binder [0031] and organic particles [0030]. Campbell does not teach the organic particle comprises an aluminosilicate. However, Poncelet teaches a coating composition to be provided on a support (col. 2, line 26), wherein the coating composition comprises aluminosilicate polymer obtained from aluminum and silicon alkoxide in a presences of aqueous alkali, wherein the Al molar concentration being maintained in the range of 0.0005-0.02, Al/Si molar ratio between 1 and 3 (col. 1, lines 55-63) and the amount of the alkali, in moles, is between 2 and 3 times the amount of

aluminum (col. 3, line 26). The aluminum, silicone alkoxide and aqueous alkali are mixed before heating (col. 1, lines 58-63), and byproducts such as residual ions are eliminated before coating the coating composition (col. 2, line 1). The coating composition does not contain a binder. The alkali comprises sodium or potassium {meets instant claim 2} (col. 3, line 20). The Al molar concentration being maintained in the range of 0.0005-0.02 {meets instant claims 4 and 5} (col. 1, lines 61 and 62). The amount of the alkali, in moles, is between 2 and 3 times the amount of aluminum {meets instant claims 6-8} (col. 3, line 26). Aluminum halide is an example of the aluminum to obtain the aluminosilicate polymer and tetraethylorthosilicate is an example of the silicon alkoxide to obtain the aluminosilicate polymer {meets instant claims 9-11} (col. 5, lines 21-25). Poncelet does not teach the use of a chelating agent in preparing the aluminosilicate. However, Plank teaches the use of a chelating agent in preparing an aluminosilicate polymer {instant claims 12-15} (col. 19, line 39). At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the chelating agent of Plank with the invention of Poncelet, and the motivation would be, as Plank suggests, improving attrition resistance of the product (col. 19, line 37).

5. Campbell and Poncelet are analogous art because they from similar problem solving area in relation to polymeric aluminosilicate material. At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the aluminosilicate polymeric material of Poncelet with the invention of Campbell, and the motivation would be, as Poncelet suggests, providing a permeable and antistatic coating layer (col. 2, line 15).

6. Claim 16: Campbell teaches that the particle to binder ratio to be 1:1 to 15:1 [0032], which is calculated to be 50-93.7% of particles.
7. Claim 17: Campbell teaches the binder can be gelatin or polyvinyl alcohol [0031].

Response to Arguments

8. Applicant's argument is based on that the claimed aluminosilicate polymer is obtained by a specific method which provides an amorphous material. The higher temperatures of Poncelet provide a crystalline material. Applicant also directed the Examiner's attention to the Rule 132 Declaration of Application No. 10/521,348. This argument is not persuasive for the following reason. Currently, the Examiner cannot make any decision based on a Rule 132 Declaration that is disclosed in a different Application. Crystalline materials are arranged in fixed geometric patterns or lattices; however, amorphous materials have random unoriented molecules. The claimed invention is directed to an ink jet recording element containing aluminosilicate polymer. The combination of Campbell and Poncelet also teaches an ink jet recording element containing polymeric aluminosilicate. In Poncelet, there is nothing that teaches or suggests that the aluminosilicate is crystalline. Even if, in Poncelet, the aluminosilicate is crystalline, there is nothing that shows in the current invention that the molecular arrangement of the aluminosilicate is critical to the claimed ink jet recording element. There is nothing that shows, in the current invention, whether the amorphous or crystalline aluminosilicate is critical to the claimed invention. Furthermore, Applicant

has not provided any factual evidence showing that the molecular arrangement, (i.e., amorphous or crystalline) of the aluminosilicate is critical to the claimed invention.

9. For the above reason claims 1-17 stand rejected.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betelhem Shewareged whose telephone number is (571)272-1529. The examiner can normally be reached on Monday-Friday 9am-5pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BS

March 21, 2009

/Betelhem Shewareged/
Primary Examiner, Art Unit 1794.